

Entered -8-31-99 - sb  
CL 99L0546 - GWENDOLYN BURNS

CLAIM OF: **TOMMY SCHMIDT**  
through his attorney  
**E. Alan Miller**  
**Webb, Carlock, Copeland, Semler &**  
**Stair, LLP**  
**2600 Marquis Two Tower**  
**285 Peachtree Center Tower**  
**Atlanta, Georgia 30303**

01- *R* -0285

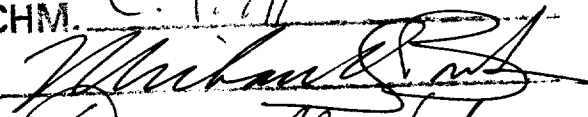
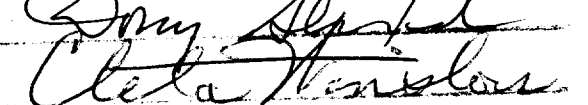

For bodily injuries alleged to have been sustained from a water meter  
that was improperly covered on February 24, 1999 at Woodward  
Avenue, SE & Grant Street, SE

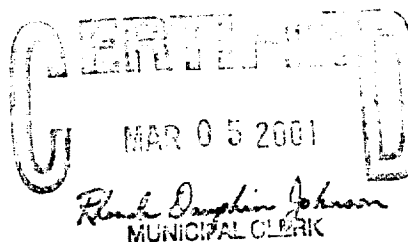
THIS ADVERSED REPORT IS  
APPROVED

BY:

  
ROBERT N. GODFREY  
DEPUTY CITY ATTORNEY

ADVERSED MAR 05 2001

APPROVED BY:  
P.S. LA  
DATE 2/27/01  
CHM. C. T. III  
  
  






## OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103

March 14, 2001

Webb, Carlock, Copeland, Semler & Stair, LLP  
E. Alan Miller  
Attorney at Law  
2600 Marquis Two Tower  
285 Peachtree Center Tower  
Atlanta, GA 30303

01-R-0285

RE: Tommy Schmidt

Dear Attorney Miller:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on March 05, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

cc: Claims Division/Law Department

**DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY**

Claim No. 99L0546

Date: February 15, 2001

Claimant /Victim TOMMY SCHMIDT  
BY: (Atty) (Ins. Co.) E. Alan Miller, WEBB, CARLOCK, COPELAND, SEMLER & STAIR, LLP  
Address: 2600 Marquis Two Tower, 285 Peachtree Center Avenue, Atlanta, Georgia 30303  
Subrogation:        Claim for Property damage \$        Bodily Injury \$ Unspecified  
Date of Notice: 8/18/99 Method: Written, Proper X Improper         
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 2/24/99 Place: Woodward Avenue, SE & Grant Street, SE  
Department WATER Division         
Employee involved        Disciplinary Action:       

NATURE OF CLAIM: Claimant alleges that he sustained bodily injuries when he stepped into a water meter which was not properly covered. However, the Claimant has filed a lawsuit to settle the issues of his claim.

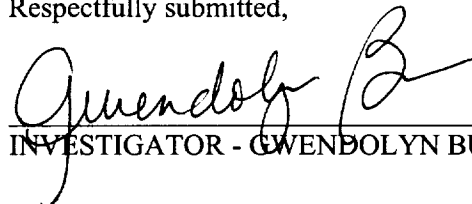
**INVESTIGATION:**

Statements: City employee        Claimant        Others        Written        Oral         
Pictures        Diagrams        Reports: Police        Dept Report        Other X  
Traffic citations issued: City Driver        Claimant Driver         
Citation disposition: City Driver        Claimant Driver       

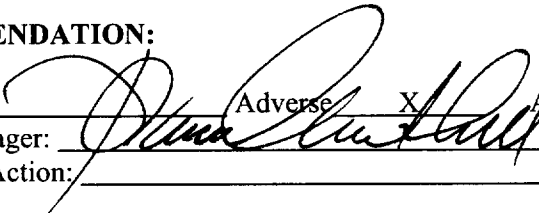
**BASIS OF RECOMMENDATION:**

Function: Governmental        Ministerial        X  
Improper Notice        More than Six Months        Other X Damages reasonable         
City not involved        Offer rejected        Compromise settlement         
Repair/replacement by Ins. Co.        Repair/replacement by City Forces         
Claimant Negligent        City Negligent        Joint        Claim Abandoned       

Respectfully submitted,

  
INVESTIGATOR - GWEN DOLYN BURNS

**RECOMMENDATION:**

Pay \$        Adverse X Account charged: 1A01        2J01        2H01         
Claims Manager:  Concur/date 02-15-01  
Committee Action:        Council Action

411

BURNS  
08/18/99

LAW OFFICES

**WEBB, CARLOCK, COPELAND, SEMLER & STAIR, LLP** *DM*

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

E. ALAN MILLER  
DIRECT DIAL NUMBER  
(404) 221-2277

TELECOPIER  
(404) 222-0482

E-MAIL ADDRESS  
eam@webbcarlock.com

ADMITTED IN GA AND SC

2800 MARQUIS TWO TOWER  
285 PEACHTREE CENTER AVENUE  
ATLANTA, GEORGIA 30303-1235

P.O. BOX 56867  
ATLANTA, GEORGIA 30343-0867

TELEPHONE  
(404) 522-8120  
ENTERED - 8-31-99 - SB  
99L0546 - GWEN BURNS

August 16, 1999

SOUTH CAROLINA OFFICE  
303 PROFESSIONAL BUILDING  
HILTON HEAD ISLAND, SC 29928

TELEPHONE  
(843) 808-2244

TELECOPIER  
(843) 765-8676

REPLY TO ATLANTA OFFICE

VIA FACSIMILE #404-658-6894.  
VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
ITEM NO.: P 282 340 279  
AND REGULAR MAIL

Susan P. Langford  
City Hall Tower, Suite 4100  
68 Mitchell Street  
Atlanta, Georgia 30335-0332

RE: Ante Litem Notice  
The Personal Injuries of Tommy Schmidt  
Date of Accident: 2/24/99  
Our File No.: 1822-20039

Dear Ms. Langford:

This firm represents Tommy Schmidt in this matter. We are writing pursuant to O.C.G.A. § 36-33-5 to provide the City of Atlanta with Ante Litem Notice of an incident which occurred on February 24, 1999. On that date, Tommy Schmidt, was walking on a city sidewalk at the intersection of Woodward Avenue and Grant Street when he stepped on a water meter cover, which had been replaced loosely and haphazardly. The water meter is located on a sloped portion of the sidewalk. He fell into the hole beneath it and fell into the street on Woodward Avenue. Mr. Schmidt blanked out after he initially fell and awoke in a dazed state. This incident occurred in the mid-day hours of February 24, 1999. A copy of the Police Report pertaining to this matter is enclosed. Mr. Schmidt suffered cuts, abrasions and contusions to his knees and ankles. Mr. Schmidt was transported by ambulance and treated at Piedmont Hospital. He incurred considerable medical expenses as a result of this incident.

The water meter cover was loose and had been replaced haphazardly when Mr. Schmidt stepped upon it and fell. The City is responsible for maintaining its sidewalks and water meter covers in a non-negligent manner. Because the water meter cover had not been


*Alan*

Susan P. Langford  
August 16, 1999  
Page 2

replaced properly on February 24, 1999, Tommy Schmidt fell into it and sustained injuries. On behalf of Mr. Schmidt, we demand compensation for his medical expenses and personal injuries in an amount comensurate with the injuries and evidence presented here. We will look forward to the City's timely response to this Ante Litem Notice.

Yours very truly,  
  
E. ALAN MILLER

EAM:lmg  
Enclosure



RCS# 2689  
3/05/01  
6:36 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1 thru. 13

ADOPT

YEAS: 12  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 0  
ABSENT 1

SEE ATTACHED LISTING OF  
ITEMS ADOPTED/ADVERSED  
ON CONSENT AGENDA

NV McCarty	Y Dorsey	Y Moore	Y Thomas	ITEM (S) REMOVED FROM <u>CONSENT AGENDA</u> 01-O-0240 01-R-0307 01-R-0346
Y Starnes	Y Woolard	NV Martin	Y Emmons	
Y Bond	Y Morris	B Maddox	Y Alexander	
Y Winslow	Y Muller	Y Boazman	NV Pitts	

CONSENT

**ITEMS ADOPTED ON CONSENT  
AGENDA**

1. 01-O-0179
  2. 01-O-0348
  3. 00-O-1657
  4. 01-O-0355
  5. 01-O-0152
  6. 01-R-0190
  7. 01-R-0349
  8. 01-R-0351
  9. 01-R-0290
  10. 01-R-0304
  11. 01-R-0305
  12. 01-R-0369
  13. 01-R-0370
  14. 01-R-0297
  15. 01-R-0300
  16. 01-R-0298
  17. 01-R-0299
  18. 01-R-0251
  19. 01-R-0252
  20. 01-R-0253
  21. 01-R-0254
  22. 01-R-0255
  23. 01-R-0256
  24. 01-R-0257
  25. 01-R-0258
  26. 01-R-0259
  27. 01-R-0260
  28. 01-R-0261
  29. 01-R-0262
  30. 01-R-0263
  31. 01-R-0264
  32. 01-R-0265
  33. 01-R-0266
  34. 01-R-0267
  35. 01-R-0268
  36. 01-R-0269
  37. 01-R-0291
  38. 01-R-0292
- 

**ITEMS ADVERSE  
ON CONSENT AGENDA**

39. 01-R-0270
40. 01-R-0271
41. 01-R-0272
42. 01-R-0273
43. 01-R-0274
44. 01-R-0275
45. 01-R-0276
46. 01-R-0277
47. 01-R-0278
48. 01-R-0279
49. 01-R-0280
50. 01-R-0281
51. 01-R-0282
52. 01-R-0283
53. 01-R-0284
54. 01-R-0285
55. 01-R-0286
56. 01-R-0287
57. 01-R-0288
58. 01-R-0289